



California Fair Political Practices Commission

October 17, 1985

Shirley L. Grindle
Chairman, TIN CUP Campaign Reform
Committee
19051 Glen Arran
Orange, CA 92669

Re: Your Request for Advice,
Our File No. A-85-198

Dear Ms. Grindle:

Thank you for your letter requesting advice concerning the interpretation of the Political Reform Act.^{1/} It appears from your letter that you are not requesting advice about your own duties under the Act, or about the duties of someone whom you represent. Therefore, pursuant to Commission regulation 2 Cal. Adm. Code Section 18329 (copy enclosed), I can give you only general information about the application of the Political Reform Act to the situation you have presented. You should also note that the Commission's jurisdiction is limited to the administration of the Political Reform Act (Section 83111); therefore, I am unable to provide you with assistance in interpreting any local ordinance.

You have asked whether a person who holds a luncheon for a county supervisor, and pays for the cost of the luncheon, has made a contribution or a gift to the county supervisor. Whether a payment is considered a gift or a contribution depends on the particular facts and circumstances of the situation. Section 82028 provides that a gift is any payment to the extent that consideration of equal or greater value is

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

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not received; however, a contribution which must be reported on a campaign statement is not a gift. A contribution is any monetary or nonmonetary payment made for political purposes for which full and adequate consideration is not made to the donor. Section 82015; 2 Cal. Adm. Code Section 18215. Commission regulation 2 Cal. Adm. Code Section 18215 (copy enclosed) provides that a payment is made for political purposes if it is (1) for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, or the qualification or passage of any measure; or (2) received by or made at the behest of a candidate (unless it is clear from the surrounding circumstances that the payment was received or made at his or her behest for personal purposes unrelated to his or her candidacy or status as an officeholder), a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes.

Without more facts, it is not possible to determine whether the payment in the situation you presented would be considered a gift or a contribution. Furthermore, as I stated above, because you are not asking for advice about your duties under the Political Reform Act, or the duties of someone whom you represent, I cannot provide you with specific advice.

You also asked whether Section 86202 is still valid. Section 86202 was repealed effective January 1, 1985. Ch. 161, Stats. 1984. Prior to the repeal of Section 86202, the California Supreme Court held that it was unconstitutional. Fair Political Practices Com. v. Superior Court, (1979) 25 Cal. 3d. 33.

I hope you find this general information helpful. If, in the future, you have any questions concerning your duties under the Political Reform Act, or the duties of someone whom you represent, we will be happy to assist you. If you have any questions regarding this letter, please contact me at (916) 322-5901.

Very truly yours,

Kathryn E. Donovan

Kathryn E. Donovan
Counsel
Legal Division

Enclosures



TIN CUP
CAMPAIGN REFORM COMMITTEE

1077 West Ball Road
Anaheim, California 92802
(714) 772-0144 633-0851

Time Is Now . . . Clean Up Politics

Fair Political Practices Commission
Legal Division
P. O. Box 807
Sacramento, California 95804

Attention: Dan Stanford, Chairman

Dear Chairman Stanford:

I am pleased that I had the opportunity to meet you last week and I am sending this request for some legal advice through your hands to expedite a reply from your staff.

The TIN CUP ordinance uses definitions of terms as defined in the Political Reform Act, unless otherwise stated in the ordinance. In this context can you tell me whether the following circumstance would be classified as a "contribution" or as a "gift"?

A person holds a luncheon at a local restaurant for a County Supervisor. The expenses of said luncheon are borne by the person. Are these expenses a contribution by that person or a gift from that person?

I would also like to know if Section 86202 is still valid. I thought the prohibition on lobbyist contributions was ruled unconstitutional by the Superior Court of Los Angeles County in 1979.

Thank you very much for any advice you can offer on the above.

Sincerely,

A handwritten signature in cursive script that reads "Shirley L. Grindle".

Shirley L. Grindle
Chairman, TIN CUP Campaign Reform Committee
19051 Glen Arran
Orange, California 92669
(714) 633-0851